

Scottsdale Airport

SDL

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CHAPTER FIVE - AVIATION



REVISIONS

<u>REVISION NO.</u>	<u>DATE</u>	<u>SECTION</u>
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ARTICLE 1. GENERALLY

Sec. 5-101. Definitions.

The following words and phrases, whenever used in this chapter or documents promulgated hereunder, shall be construed as defined in this section unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases. All definitions contained in 49 U.S.C. § 40101 *et seq.* (previously known as the Federal Aviation Act of 1958, hereinafter cited as “FAA Act”) and all amendments thereto shall be considered as included herein; and all definitions shall be interpreted on the basis and intention of the FAA Act and amendments thereto, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

Aeronautical activity means any activity or service which involves, makes possible, or is required for the operation of aircraft, or contributes to, or is required for, the safety of such operations. “Aeronautical activities” include, but are not limited to, charter operations (under either Federal Aviation Regulation (FAR) Part 121 or 135), charter brokerage, aircraft hangar leasing, pilot training, aircraft rental and sight-seeing, aerial photography, crop dusting, fire suppression, aerial advertising and surveying, aircraft sales, leasing, and servicing, aircraft management, and sale of aviation petroleum products, whether or not conducted in conjunction with other included activities which have a direct relationship to the operation of aircraft, repair and maintenance of aircraft, sale of general aviation aircraft parts, and any other activities which because of their relationship to the operation of aircraft can appropriately be regarded as an “aeronautical activity.”

Aeronautical business permit means administrative approval issued by the airport director to a person to conduct commercial aeronautical activity and to provide such services to: based and transient aircraft on the airport only in facilities on the airport at which such services are authorized.

Airport means all of the city-owned or leased real or personal property comprising Scottsdale Airport as now exists or as may hereafter be expanded and developed. “Airport” includes all of its facilities as shown on the most current airport layout plan.

Airport advisory commission means the duly appointed seven-member airport advisory commission of the city.

Airport/airpark access means the movement of an aircraft to the airpark from the airport and vice-versa.

Airport director means the duly appointed director of the airport or the director’s designee.

Airport appeals board means a body consisting of the chairman of the airport advisory commission, another airport advisory commission member appointed by the chairman, and a city representative appointed by the city manager or his designee.

Based means an aircraft: (1) which the owner physically locates at the airport or airpark with no present intention of definite and early removal and with the purpose to remain for an undetermined period; (2) which, whenever absent from the airport or airpark, its owner intends to return to the airport or airpark for permanent hangaring; and (3) whose presence in the airport or airpark is something other than merely transitory in nature.

Commercial activity means the conduct of any aspect of a business, concession or service in order to provide goods or services to any person for compensation. An activity is considered commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

Permission or permit means permission granted by the city.

Person means the state, county, a political subdivision of the state, other governmental entity, a corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual. Person includes a trustee, receiver, assignee or similar representative.

Sec. 5-102. General conditions of use.

The conditions under which the airport or any of its facilities may be used shall be as established pursuant to this chapter or otherwise by the city council.

Sec. 5-103. Permission to use airport conditional; denial of permission.

Any permission granted by the city directly or indirectly, expressly or by implication, to enter upon or use the airport or any part thereof, including but not limited to, operators, off-airport users, crew members and passengers, spectators, sightseers, pleasure and commercial vehicles, officers and employees of airlines, lessees and other persons occupying space at the airport, persons doing business with the airport, its lessees, sublessees and permittees and all other persons whatsoever, whether or not of the type indicated, is conditioned upon compliance with this chapter and any rules, regulations or minimum operating standard promulgated hereunder. Entry upon or into the airport by any person shall be deemed to constitute an agreement by such person to comply with this chapter. The city reserves the right to deny any or all usage of the airport to any person or persons for any cause.

Sec. 5-104. Consent of city.

Unless expressly provided otherwise, any consent or other permission of the city under this chapter must be obtained in advance in writing and signed by the airport director.

Sec. 5-105. Notices and applications.

Unless expressly provided otherwise, any notice or application to the city must be given in writing to the airport director during normal business hours at the airport office in the terminal building.

Sec. 5-106. Adopted by reference.

The following publications, on file with the city clerk, are hereby adopted by reference as if set out at length in this Chapter:

- (a) Scottsdale Airport Rules and Regulations and any amendments thereto as may be approved by the airport advisory commission.
- (b) Scottsdale Airpark Rules and Regulations and any amendments thereto as may be approved by the airport advisory commission.
- (c) Scottsdale Airport Minimum Operating Standards and any amendments thereto as may be approved by the airport advisory commission.
- (d) Scottsdale Airpark Minimum Operating Standards and any amendments thereto as may be approved by the airport advisory commission.
- (e) Scottsdale Airport Rates and Fees Schedule and any amendments thereto as may be approved by the airport advisory commission and city council.

Sec. 5-107. Conflicting laws, ordinances, regulations and contracts.

- (a) In any case where a provision of this chapter, rules and regulations, minimum operating standards, or rates and fees schedule adopted hereunder is found by the city attorney to be in conflict with any other provision of this chapter or regulations adopted hereunder or in conflict with a provision of any zoning, building, fire, safety, health or other ordinance or code of the city, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- (b) In cases where two (2) or more provisions of this chapter are in conflict, the most stringent or restrictive shall prevail.
- (c) It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or to excuse any person from performing obligations to the city under any lease or other contract.
- (d) No existing or future city contract, lease, agreement or other contractual arrangement, nor any payment or performance thereunder, shall excuse full and complete compliance with this chapter. Compliance with this chapter shall not excuse full and complete compliance with any obligations to the city under any existing or future city contract, lease, agreement or other contractual arrangement.
- (e) Compliance with this chapter does not excuse failure to comply with any other law.

Sec. 5-108. Application.

Except where expressly limited by its terms, this chapter is effective throughout the city.

Sec. 5-109. Airport advisory commission.

- (a) There is created a Scottsdale airport advisory commission consisting of seven (7) members.
- (b) The airport advisory commission shall establish bylaws to govern its affairs. The bylaws shall designate:
 - 1. Officers of the airport advisory commission, the time and manner of their election, the term of office and the powers and duties of each officer.
 - 2. The time, place and manner of notice of all regular and special meetings.
 - 3. The manner of adoption, amendment and repeal of airport advisory commission by-laws.
 - 4. Such other provisions as may be deemed necessary or desirable which are not contrary to the provisions of any ordinance or resolution, the charter or the laws of the state or the United States, to aid the airport advisory commission in conducting its affairs.
- (c) The airport advisory commission shall, with the assistance of the city staff, advise the city council as necessary on:
 - 1. The maintenance and operation of the airport and environs.
 - 2. Rules, regulations, and minimum operating standards under this chapter.
 - 3. The effects of airport operations and projects on the environment.
 - 4. Proposals for development at the airport and the airpark.
 - 5. Fees imposed by the city in connection with the airport and the airpark.
 - 6. Leases of city property at the airport.
 - 7. Land use policies at and surrounding the airport.
 - 8. The future role of the airport as part of the state-wide air transportation system.
 - 9. Safety matters under the jurisdiction of the airport.
 - 10. Such other matters as the city council may direct.
- (d) The airport advisory commission shall report to the city council once a year on activities of the airport.
- (e) The airport advisory commission shall perform such other duties as are imposed on the airport advisory commission by this chapter.

- (f) The city council shall have the right and prerogative to initiate review of any decision of the airport advisory commission and shall uphold, modify, or overrule said decision.

Sec. 5-110. Effect of agreements with federal government.

All lease agreements and permits and other contractual or governmental arrangements to which the city may be a party shall be subordinate to the provisions of any existing or future agreement between the city and the United States relative to the operation and maintenance of the airport.

Sec. 5-111. Conformance with federal, state and other rules, regulations and agreements.

- (a) No person shall navigate, land aircraft upon, or conduct any aircraft or other operations on or from the airport, nor shall any person engage in any other aviation activity at the airport or elsewhere within the city, otherwise than in conformity with the requirements of the Federal Aviation Administration and all other applicable federal, state, city laws, statutes, ordinances, rules, regulations and minimum operating standards.
- (b) Any use of the airport by any person constitutes that person's agreement to conform in all respects to the requirements of any grant agreements by the city with the State of Arizona, the United States, and any other governmental entity.

Sec. 5-112. Liability of city.

The city is not responsible or liable for any loss, injury or damage to persons or property on the airport, or using airport facilities, for any reason, including but not limited to, fire, civil disorder, criminal activity, theft, vandalism, winds, flood, earthquake, collision, act of third parties or otherwise, and/or acts contrary to this chapter or any regulations promulgated hereunder.

Sec. 5-113. Indemnification.

To the fullest extent permitted by law, any person accessing or using the airport or any of its facilities, or any airport taxilanes, and the person's successors, assigns and guarantors, shall indemnify, defend, pay and hold the city, its agents, employees, officials, directors, officers, commissioners and representatives harmless from and against all claims, demands, charges, penalties, obligations, fines, administrative and judicial actions or proceedings, suits, liabilities, judgments, damages, losses, costs and expenses of any kind or nature (including, but not limited to, attorney fees and expenses, expert witness and consultant fees and expenses, arbitration fees, court costs and the cost of appellate proceedings) arising from said access or use, or from any other act or omission of said person (and its employees, agents or anyone for whose acts or omissions said person may be liable) including, without limitation, the discharge of any duties or the exercise of any rights or privileges pursuant to this chapter or any regulations or minimum operating standards promulgated hereunder. This section applies, without limitation, to claims of personal injury, bodily injury, sickness, disease or death, and to claims of property damage (including city property), destruction or other impairment of every description (including,

without limitation, loss of use), and to claims of environmental property damage (including, without limitation, cleanup, response, removal and remediation costs).

Sec. 5-114. Forms.

The airport director shall have authority to specify forms to be used for applications, permits, reports and other documents required under this chapter and to reject any documents not conforming to said forms.

Sec. 5-115. Supplementing information.

Within fifteen (15) calendar days after any discovery of a material misstatement, omission or other inaccuracy or material change in any information contained in any application, report or other document provided to the city, the person submitting the information shall inform the city in writing of the inaccuracy or change and shall provide the city with the correct information in writing.

Sec. 5-116. Payment of fees and charges.

No person shall perform any activity for which a fee or charge is imposed under this chapter without first reporting the activity to the city and paying the appropriate fee to the city (as identified in the minimum operating standards and/or airport/airpark rates and fees schedule). Notwithstanding the preceding sentence, when a reporting procedure in this chapter specifically provides for subsequent reporting, prior reporting is not required. Fees, rates and charges for use of any airport facilities and for any service or accommodations provided by the city shall be established in the same manner as rules and regulations are established under this chapter. Nothing in this chapter impairs or limits the city's ability to impose fees or charges by contract.

Sec. 5-117. Airport-related fee administration and collection.

The administration and collection of airport-related fees is vested in the tax collector. Except as expressly stated to the contrary in this chapter, all procedures, remedies, requirements, penalties and other provisions for the determination, administration and collection of privilege taxes shall apply to airport-related fees.

Sec. 5-118. Payment of bills and default of obligations.

All city billings are payable upon presentation. When any person is formally notified that said person is held in default of any written or implied obligation to the city, whether it be for breach of performance, services, covenants or nonpayment, the person shall thereafter be billed for all losses of revenue and expenses incurred to reestablish performance or service and other costs, unless the person files with the city within ten (10) calendar days of receipt of the formal notification a statement that corrective or preventive measures have been initiated and will diligently be carried out. If the promises contained in the statement are not fulfilled, the person will be considered in absolute default and appropriate lawful steps will be initiated by the city.

Sec. 5-119. Repealer and savings clause.

The effective date of this chapter is thirty (30) calendar days after the date this ordinance is adopted by the city council. The pre-existing chapter 5 of the Scottsdale Revised Code and the related Commercial Aviation Permit system continue in full force and effect until this ordinance becomes effective, at which time they are repealed. All future duties and obligations thereafter arising under the pre-existing chapter 5 of the Scottsdale Revised Code and the related Commercial Aviation Permit system shall cease, but liability for fees and violations of the pre-existing chapter 5 of the Scottsdale Revised Code as of the effective date of this ordinance are preserved and continue unaffected by this ordinance.

Sec. 5-120. Severability.

If any section, subsection, paragraph, sentence, clause, phrase or portion of this chapter should be declared invalid or unconstitutional for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; the city council of the City of Scottsdale declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional; and, to this end, the provisions of this chapter are hereby declared to be severable.

Sec. 5-121. Use of city-owned airport property.

The airport director shall have the authority to enter into a license, permit or other such agreement for the use of any city-owned airport property, including but not limited to, land, buildings, office space, counter space, and aircraft storage facilities, subject to the following conditions:

- (a) Any lease of city-owned airport property shall be approved by the airport advisory commission and city council.
- (b) Any airport license or other such agreement shall be in a form approved by the city attorney, with a term of one (1) year or less and a minimum of a thirty (30) calendar day cancellation clause. Any license or other such agreement not meeting these criteria shall be approved by the airport advisory commission and city council.
- (c) Any airport permit shall be in a form approved by the city attorney and shall remain in effect until such time as the permittee requests cancellation in writing, or the permit is revoked pursuant to division 4 of this chapter.
- (d) Any use of city-owned airport property for commercial aeronautical activities is subject to the requirements of the airport minimum operating standards.

Sec. 5-122. Access codes/devices.

Unless otherwise approved in writing by the airport director, persons who have been provided either a code or access device for the purpose of obtaining access to the airport shall only use said

airport-issued codes/devices and shall not divulge, duplicate or otherwise distribute the same to any other person.

Sec. 5-123. Runway weight-bearing capacity.

The weight-bearing capacity of the airport runway is seventy-five thousand (75,000) pounds. No aircraft with a certificated maximum take-off weight in excess of forty-five thousand (45,000) pounds for single-wheel aircraft and seventy-five thousand (75,000) pounds for dual-wheel aircraft shall be permitted to operate from the airport except in an emergency or pursuant to city consent specifying a particular aircraft operation on a particular date.

Sec. 5-124. Permit not transferable.

No lease, license, permit or agreement shall be assigned, transferred or in any other manner set over to another person without the prior written consent of the city.

Sec. 5-125. City council review.

- (a) The city council shall have the right and prerogative to initiate its own review of any decision of the airport appeals board, but only upon the affirmative vote of four (4) council members taken within twenty (20) days following such decision of the airport appeals board. Notice of such council-initiated review of any decision of the airport appeals board shall be given by the city clerk to the aggrieved party, airport appeals board members and the airport director within seven (7) days after initiation of such review by the city council.
- (b) The city clerk shall schedule such review for a city council agenda not more than forty (40) nor less than fifteen (15) days following initiation of such review by the city council. The city council at its meeting after conducting such review shall uphold, modify, or over-rule the decision of the airport appeals board. The decision of the city council shall be final.

Secs. 5-126 to 5-200. Reserved.

ARTICLE 2. RULEMAKING AUTHORITY

Sec. 5-201. Airport/Airpark rules and regulations.

The airport director is authorized to establish and/or amend such rules, regulations and minimum operating standards as are necessary or useful to carry out or supplement the provisions of this chapter and provide for the orderly and safe operation of the airport and airpark.

Sec. 5-202. Limitation on rules and regulations by airport director.

- (a) No rule, regulation or minimum operating standard established by the airport director shall be effective until ten (10) calendar days after it is approved by the airport advisory commission. Any regulation established by the airport director shall be posted in the lobby or other area of the airport terminal building open to the public during normal business hours for a period of not less than five (5) calendar days prior to approval by the airport advisory commission.
- (b) No regulation established by the airport director shall increase the monthly aeronautical business permit fee.
- (c) Creation or modification of any fee must be approved by the airport advisory commission and the city council.

Sec. 5-203. Posting and filing of documents.

Airport rules, regulations, minimum operating standards, and rates and fees schedule shall be filed with the city clerk. All changes to these documents shall be filed with the city clerk.

Sec. 5-204. Emergency rules and regulations.

With the approval of the city manager, the city transportation general manager, or the city emergency services director, the airport director has authority to impose emergency regulations. Such emergency regulations are limited to forty-five (45) calendar days duration and take effect immediately upon execution by both the airport director and one of said officers, and posting of copies of the regulations at the airport terminal building and at two other public places within the city. Each emergency rule or regulation shall be reviewed and/or established as a permanent rule or regulation at the next regularly scheduled airport advisory commission meeting.

Secs. 5-205 to 5-300. Reserved.

ARTICLE 3. AERONAUTICAL BUSINESS PERMIT AND FEES

Sec. 5-301. Aeronautical business permit required.

No commercial aeronautical activity shall be conducted by any person at the airport or in the airpark without said person being in possession of a valid aeronautical business permit. Each person holding an aeronautical business permit must hold a valid and current business or privilege tax license issued by the city if such license is required by the city. Issuance of an aeronautical business permit does not entitle the holder to possess, occupy or exclusively use any portion of the airport or city-owned property within the airpark, grant any exclusive right to conduct any business or activity, or authorize any conduct prohibited by zoning laws or any other applicable law.

Sec. 5-302. Aeronautical business permit applications.

(a) Except as specifically stated otherwise in this chapter, an application for an aeronautical business permit shall be approved or denied by the airport director as indicated in the airport or airpark minimum operating standards, subject to ratification by the airport advisory commission at its next regularly scheduled meeting. The city is not responsible or liable for any loss, injury, or damage as a result of the failure of the airport advisory commission to ratify an administrative approval of an aeronautical business permit. Each application for an aeronautical business permit shall be accompanied by the following:

1. An aeronautical business permit application;
2. All information identified in section 2-1 of the airport or airpark minimum operating standards; and
3. Such other information as the airport director may reasonably request.

(b) Notwithstanding subsection (a) above, the airport director shall issue an aeronautical business permit to any person lawfully engaged in a permitted commercial aeronautical activity as of the effective date of this ordinance upon receipt of a complete permit application (to include those items identified in section 2-1 (h)–(m) of the airport minimum operating standards). A permit issued pursuant to this paragraph shall not be subject to ratification by the airport advisory commission.

Sec. 5-303. Temporary aeronautical business permits.

Notwithstanding section 5-302, the airport director shall have authority to issue temporary aeronautical business permits and to establish procedures relating thereto. Such temporary permits shall cover a single period of not more than thirty (30) consecutive days identified on the permit. No more than one (1) temporary permit shall be issued to any person in any twelve (12) month period. Each application for a temporary aeronautical business permit shall be accompanied by an aeronautical business permit form and any other applicable documentation as determined by the airport director.

Sec. 5-304. Permit display.

Each person conducting commercial aeronautical activity shall permanently post the aeronautical business permit in a conspicuous place in that person's business office. Any person conducting commercial aeronautical activity shall, upon demand, produce the aeronautical business permit to a city representative for inspection.

Sec. 5-305. Monthly aeronautical business fee amount.

Monthly aeronautical business permit fees are hereby imposed upon all commercial aeronautical activity. Monthly aeronautical business permit fees for specific types of permitted commercial aeronautical activity are identified in the airport or airpark minimum operating standards and/or the airport/airpark rates and fees schedule.

Sec. 5-306. Monthly aeronautical business permit fee payment.

Monthly aeronautical business permit fees shall be due and payable by the 20th day of the month following the month in which services were provided, and shall include the applicable monthly permit fee, late fees, interest and penalties.

Sec. 5-307. Phase in for certain existing leases.

- (a) Unless otherwise expressly stated to the contrary in an existing lease of airport property, and subject to the provisions of subsection (b), below, existing lessees of airport property (or any other person who, with the prior written approval of the city, is licensed by an existing lessee to conduct activities permitted under an existing lease, and their successors and assigns) are exempt from all monthly aeronautical business permit fees imposed by section 5-305, except the airport/airpark fuel flowage fee identified in the airport/airpark rates and fees schedule.
- (b) The exemption established by this section shall terminate and expire automatically upon the termination, expiration, amendment or modification of the respective lease for any reason.

Sec. 5-308. Duration of permit.

An aeronautical business permit shall remain in effect so long as the permittee complies with all of its terms, conditions, and covenants.

Sec. 5-309. Non-waiver of defaults.

The waiver by the city of any breach by the permittee of any term, covenant, or condition of any permit shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition of the permit. No term, covenant, or condition thereof can be waived except by the written consent of the airport director, and forbearance or indulgence by city, in any regard whatsoever, shall not constitute a waiver of the term, covenant, or condition to be performed by permittee, and until complete performance by permittee of the term, covenant, or

condition, the city shall be entitled to invoke any remedy available to it hereunder or by law, despite such forbearance or indulgence.

Sec. 5-310. General conditions for all permits.

The city is neither a joint venturer with, nor a partner or associate of, the permittee with respect to any manner provided for in the permit. Nothing herein contained shall be construed to create any such relationship between the parties or to subject the city to any obligation of the permittee whatsoever. The permit is a license and not a lease.

Sec. 5-311. Payment Assurance.

In order to ensure that the city is receiving all of the fees to which it is entitled as provided by this chapter, upon request all commercial operators shall provide sufficient documentation verifying that appropriate fees were paid to the city. All operators shall also provide the city's finance director or the finance director's designee, at reasonable times and places, the operator's records, books of accounts and all other pertinent records for the current fiscal year and the three (3) preceding fiscal years. No inspection will be made without reasonable notice given to the operators.

Secs. 5-312 to 5-400. Reserved.

ARTICLE 4. ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 5-401. Violations.

- (a) It shall be unlawful for any person to cause, facilitate, aid or abet any violation of any provision of this chapter, or any rules, regulations or minimum operating standards promulgated hereunder, or to fail to perform any act or duty required by this chapter or rules, regulations or minimum operating standards promulgated hereunder.
- (b) When two or more persons have liability to the city or are responsible for a violation, their responsibility shall be joint and several.

Sec. 5-402. Enforcement of judgments.

Any judgment for abatement, restitution or civil sanctions taken pursuant to this article may be enforced as any other civil judgment.

Sec. 5-403. Violations not exclusive.

Violations of this chapter are in addition to any other violation enumerated within this code and in no way limit the penalties, actions or abatement procedures which may be taken by the city for any violation of this chapter which is also a violation of any other provisions of this code or statutes of the state.

Sec. 5-404. Each day separate violation.

Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense.

Sec. 5-405. Inspections.

- (a) The airport director shall enforce the provisions of this chapter, and is hereby authorized and directed to make inspections in the normal course of job duties; or in response to a complaint that an alleged violation of the provisions of this chapter may exist; or when there is a reason to believe that a violation of this chapter has been or is being committed.
- (b) The airport director may enter onto any property, or into any building or premises, at all reasonable times to inspect or to perform the duties imposed upon the airport director by this chapter, provided that if such property, building or premises is occupied, the airport director shall present credentials to the occupant and request entry. If such property, building or premises is unoccupied, the airport director shall first make a reasonable effort to locate the owner or other person having charge or control of the property, building or premises and request entry. If entry is refused, the airport director has recourse to every remedy provided by law to secure entry.

- (c) When the airport director shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or person having charge, care, or control of any property, building, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry by the airport director for the purpose of inspection and examination pursuant to this chapter.
- (d) No person shall interfere with, prevent, or attempt to interfere with or prevent an individual employed by the city or other person contracted for by the city, from investigating an alleged violation of this chapter, or from correcting or abating a violation of this chapter.

Sec. 5-406. False information.

No person shall knowingly make a false or fraudulent statement, or knowingly misrepresent a fact, or mislead an individual employed by the city or other person contracted for by the city, when that individual is investigating, correcting or abating a violation of this chapter.

Sec. 5-407. Service of notices.

- (a) Any notice required to be given for any purposes under this chapter shall be by either having the city manager or designee hand-deliver the notice, or by mailing the notice by certified mail, return receipt requested.
- (b) Notice is deemed effective on the date it is hand-delivered or deposited in the United States mail.
- (c) Nothing herein shall preclude the city from giving additional oral or written notice at its discretion. If the city does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.

Secs. 5-408 to 5-500. Reserved.

DIVISION 2. DENIAL OF USE

Sec. 5-501. Denial grounds.

- (a) The airport director may, for a period up to six (6) months, deny access to, and the use and privileges of, the airport or any of its facilities to any person:
 - 1. Who violates this chapter or any rules, regulations or minimum operating standards promulgated hereunder;
 - 2. Whose action would place the airport in violation of 49 U.S.C. § 47160 *et seq.*, 14 C.F.R. Part 1 *et seq.*, or the FAA Grants and Assurances (see 14 C.F.R. Part 152); or
 - 3. Who violates any future conditions which the city may impose by appropriate process or any federal statute or regulations hereafter enacted.
- (b) The airport director may, for a period up to six (6) months, deny access to, and the use and privileges of, the airport or any of its facilities to any person who must register aircraft as based in the airport:
 - 1. Who violates this chapter or any rules, regulations or minimum operating standards promulgated hereunder;
 - 2. Whose action would place the airport in violation of 49 U.S.C. § 47160 *et seq.*, 14 C.F.R. Part 1 *et seq.*, or the FAA Grants and Assurances (see 14 C.F.R. Part 152); or
 - 3. Who violates any future conditions which the city may impose by appropriate process or any federal statute or regulations hereafter enacted. The person to whom the aircraft is registered is responsible for the acts of all persons (including, but not limited to, all agents, employees and pilots) to whom control, operation or any authority to use said aircraft is granted. The involvement of said aircraft in any act or omission that violates any of the above-enumerated laws, statutes, ordinances, rules, regulations, minimum operating standards or other conditions may result in the above-enumerated actions by the city.
- (c) Notwithstanding the provisions of (a) and (b) of this section, the airport director may summarily deny airport access, pending the hearing specified in section 5-503, to any person as to whom probable cause exists to believe committed an act or omission relating to dangerous refueling, dangerous aircraft or vehicle operation, lack of insurance, theft of or damage to property, assault and battery or such other act or omission as may constitute a danger to the health, safety, or welfare of any individual or the public in general.

Sec. 5-502. Denial procedure.

- (a) Upon probable cause to believe that a person has committed acts constituting grounds for denial of access, the airport director shall provide the affected party with notice of an order to show cause why access should not be denied. The notice shall give at least sev-

enty-two (72) hours notice of the hearing date and list the grounds for the possible denial of access.

- (b) Persons subject to section 5-501(c) shall be provided a hearing as soon as reasonably practical but in no event shall said hearing be delayed more than seventy-two (72) hours after the effective time of the denial of access, except upon mutual agreement of the airport director and the affected party.

Sec. 5-503. Denial hearing.

Access to, and the use and privileges of, the airport or any of its facilities shall be denied at the date and time of the hearing unless the affected party appears to contest the denial. The affected party shall have the right to present evidence and cross-examine any witnesses. The hearing shall be informal and the rules of evidence shall not apply. The airport director may rule on the denial of use at the close of the evidence and argument, but shall enter a ruling either denying access or dismissing the charges within ten (10) calendar days of the completion of the hearing.

Sec. 5-504. Appeal

- (a) A person may appeal the denial of use to the airport appeals board by filing a written notice of appeal with the airport director not later than ten (10) calendar days after the airport director has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed.
- (b) This division contains all the appellate relief to which an aggrieved party is entitled through city procedures. The exhaustion of appellate remedies at the city level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 5-505. Appeal procedure.

- (a) Upon receipt of a written notice of appeal, the airport appeals board shall set an appeal hearing within ten (10) calendar days and shall give notice of the hearing as provided in this division.
- (b) When required in the interest of fairness, the airport appeals board may grant continuances of the hearing, but all hearings on denial of use shall be heard not later than thirty (30) calendar days from the date on which the notice of appeal was filed.
- (c) An appellant may be represented by counsel at the hearing and the city may be represented by the city attorney's or city prosecutor's office. Formal rules of evidence shall not apply. Both the appellant and the city shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The airport appeals board shall preside over the proceedings and shall determine the order and manner of proof.
- (d) At the conclusion of the hearing, the airport appeals board shall rule on the appeal and notify the appellant of the ruling in writing, by mail, within ten (10) calendar days, unless all parties stipulate that additional time is required to render a fair decision. The airport

appeals board shall sustain the action appealed if it is supported by a preponderance of evidence.

- (e) When a denial of use is the subject of an appeal under this section, the denial of use shall not be effective unless it is sustained by the airport appeals board. The denial of use shall be effective immediately when the ruling is made by the airport appeals board at the time of the hearing, or upon mailing of the written notice of ruling as provided in this section, when the ruling is made at a time after the hearing is concluded.

Secs. 5-506 to 5-600. Reserved.

DIVISION 3. SANCTIONS; PROCEDURES

Sec. 5-601. Option to proceed civilly or criminally.

The airport director may proceed, pursuant to this article, by citation/complaint for civil sanctions or by complaint for criminal sanctions.

Sec. 5-602. Jurisdiction of city court.

- (a) Jurisdiction of all proceedings to enforce the provisions of this chapter shall be in city court.
- (b) Civil actions commenced in city court to enforce this chapter may be adjudicated by a judge or a court hearing officer.

Sec. 5-603. Civil violation; commencement of action.

- (a) A civil violation may be commenced by issuance of a citation or by complaint.
- (b) The citation shall be substantially in the same form as the Arizona Traffic Ticket and Complaint and shall direct the defendant to appear in city court within ten (10) calendar days after issuance of the citation.
- (c) The citation shall further notify the defendant that failure to appear on or before the date specified in the complaint will result in the entry of a judgment by default against the defendant, and the court may, in its discretion, impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).
- (d) Service of the citation/complaint may be accomplished and shall be deemed proper and complete by any of the following methods:
 - 1. By having the defendant sign the citation/complaint with a promise to appear in court within ten (10) calendar days of the issuance of the citation/complaint.
 - 2. By hand delivering a copy of the citation/complaint to the defendant.
 - 3. By mailing a copy of the citation/complaint to the person charged by certified or registered mail, return-receipt requested, to the person's last known address.
 - 4. In the event service cannot be accomplished as set forth in (d)(1), (2) or (3), the city may serve the defendant by any means allowed by the Arizona Rules of Civil Procedure for the Superior Court.

Sec. 5-604. Civil citation, authority to issue.

The airport director may issue a civil citation pursuant to this chapter.

Sec. 5-605. Appearance by defendant.

The defendant shall, within ten (10) calendar days of the issuance of the citation or summons and complaint, appear in person or through the defendant's attorney in the city court and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegations, the court shall enter judgment against the defendant and impose a civil sanction for the violation not to exceed two hundred fifty dollars (\$250.00), and may, in its discretion, deny defendant use of the airport pursuant to section 5-612. If the defendant denies the allegations contained in the citation, the court shall set the matter for hearing.

Sec. 5-606. Default judgment.

If a defendant fails to appear as directed on the civil citation or complaint or at the time set for hearing by the court, the allegations in the civil citation or complaint shall be deemed admitted and the court shall enter judgment against the defendant and impose a civil sanction for the violation not to exceed two hundred fifty dollars (\$250.00), and may, in its discretion, deny defendant use of the airport pursuant to section 5-612.

Sec. 5-607. Rules of procedure for civil violations.

The Arizona Rules of Court for Civil Traffic Violation Cases shall be followed by the Scottsdale City Court for civil violations of this chapter, except as modified or where inconsistent with the provisions of this chapter.

Sec. 5-608. Civil sanctions.

Upon a finding of responsible to a civil violation, the court shall impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).

Sec. 5-609. Rules of procedure for criminal violations.

The Arizona Rules of Criminal Procedure shall be followed by the Scottsdale City Court for criminal violations of this chapter, except as modified or where inconsistent with provisions of this chapter.

Sec. 5-610. Criminal penalty.

Upon a conviction of a misdemeanor the court may impose a penalty in accordance with section 1-8(a) of this Code and state law for class one misdemeanors. Probation may be imposed in accordance with the provisions of title 13, chapter 9, Arizona Revised Statutes.

Sec. 5-611. Restitution.

In addition to any civil sanction or criminal penalty provided for in this article, any person violating this chapter shall be liable for all costs which may be associated with the city's rectifying any violation of this chapter. The court shall impose restitution in addition to any civil sanction or criminal penalty.

Sec. 5-612. Denial of airport use.

In addition to any civil sanction or criminal penalty provided for in this article, the court may issue an order suspending the right of any person violating this chapter to use the airport or any of its facilities for a period not to exceed three (3) years.

Secs. 5-613 to 5-700. Reserved.

DIVISION 4. LICENSE AND PERMIT REVOCATION

Sec. 5-701. Revocation grounds.

The airport director may revoke any license or permit issued pursuant to this chapter, upon the happening of any of the following events:

- (a) A violation of the terms of such license or permit, of any provision of this chapter, or any rules, regulations or minimum operating standards promulgated pursuant to this chapter.
- (b) Falsification of any application or other information provided to the city under this chapter.
- (c) Any action which would place the airport in violation of 49 U.S.C. § 47160 *et seq.*, 14 C.F.R. Part 1 *et seq.*, or the FAA Grants and Assurances (see C.F.R. Part 152).
- (d) A violation of any future rules, regulations, minimum operating standards or other conditions which the city may impose by appropriate process or any federal statute or regulation hereafter enacted.

Sec. 5-702. Revocation procedure.

Upon probable cause to believe that the licensee or permittee has committed acts constituting grounds for revocation as provided in (a) of this section, the airport director shall provide the affected party with notice of an order to show cause why the license or permit should not be revoked. The notice shall give at least seventy-two (72) hours notice of the hearing date and list the grounds for the possible revocation. The affected party shall have the right to present evidence and cross-examine any witnesses. The hearing shall be informal and the rules of evidence shall not apply.

Sec. 5-703. Revocation hearing.

- (a) The airport director may rule at the close of the evidence and argument, but shall enter a ruling either ordering the revocation in whole or in part or dismissing the charges within ten (10) calendar days of the completion of the hearing. Upon the decision of revocation, the aggrieved party shall forthwith surrender the subject license or permit.
- (b) After a revocation, any person responsible for the commission of the acts constituting the ground for the revocation shall be ineligible to reapply for a like license or permit for a designated period of up to six (6) months from the date of revocation. A partnership, corporation, company or association which has as a partner, officer, stockholder or member ineligible for reapplication as provided by this subsection shall itself be ineligible for a like period.
- (c) Notwithstanding the provisions of (b) of this section, the airport director may summarily suspend, pending a revocation hearing, the license or permit of any person as to whom probable cause exists to believe committed an act relating to dangerous refueling, dangerous aircraft or vehicle operation, lack of insurance, theft of or damage to property, assault

and battery or such other act or omission as may constitute danger or threat to the health, safety or welfare of any person or the public in general. The affected party shall be provided a hearing as soon as reasonably practical but in no event shall said hearing be delayed more than seventy-two (72) hours after the effective time of the summary suspension, except upon mutual agreement of the airport director and the affected party.

Sec. 5-704. Appeal.

- (a) An aggrieved party may appeal the denial of a license or permit renewal or revocation to the airport appeals board by filing a written notice of appeal with the airport director not later than ten (10) calendar days after the airport director has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed.
- (b) This division contains all the appellate relief to which an aggrieved party is entitled through city procedures. The exhaustion of appellate remedies at the city level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 5-705. Appeal procedure.

- (a) Upon receipt of a written notice of appeal, the airport appeals board shall set an appeal hearing within ten (10) calendar days and shall give notice of the hearing as provided in this division.
- (b) When required in the interest of fairness, the airport appeals board may grant continuances of the hearing, but all hearings on license or permit revocations and suspensions shall be heard not later than thirty (30) calendar days from the date on which the notice of appeal was filed.
- (c) An appellant may be represented by counsel at the hearing and the city may be represented by the city attorney's and/or city prosecutor's office. Formal rules of evidence shall not apply. Both the appellant and the city shall have the right to present evidence through testimony or exhibits and to cross-examine witnesses. The airport appeals board shall preside over the proceedings and shall determine the order and manner of proof.
- (d) At the conclusion of the hearing, the airport appeals board shall rule on the appeal and notify the appellant of the ruling in writing, by mail, within ten (10) calendar days, unless all parties stipulate that additional time is required to render a fair decision. The airport appeals board shall sustain the action appealed if it is supported by a preponderance of evidence.
- (e) When a license or permit revocation is the subject of an appeal under this section, the revocation shall not be effective unless it is sustained by the airport appeals board. The revocation shall be effective immediately when the ruling is made by the airport appeals board at the time of the hearing, or upon mailing of the written notice of ruling as provided in this section, when the ruling is made at a time after the hearing is concluded. The licensee or permittee shall surrender all revoked licenses or permits to the airport appeals board whenever the revocation becomes effective.

Secs. 5-706 to 5-800. Reserved.

DIVISION 5. ABATEMENT OF VIOLATIONS

Sec. 5-801. Abatement in lieu of or in addition to other actions.

- (a) In addition to or in lieu of denial of access or filing a civil or criminal complaint, the city may file notice to abate any violation of this chapter. Such abatement shall proceed independently of any denial of access or civil or criminal violation filed pursuant to this chapter.
- (b) If any person served a notice to abate by the city pursuant to this chapter fails to comply with such notice or order, the city may correct or abate the conditions subject to the notice.
- (c) The city manager or designee shall prepare a verified statement as to the actual cost of correcting or abating the violation, and shall add an additional five (5) percent for costs of inspection and other incidental costs associated with abating the violation. The statement shall be delivered or mailed, certified mail, return-receipt requested, to the owner(s) or other person(s) the notice to abate or order was served upon. That statement shall further set forth the following:
 - 1. The person has fifteen (15) calendar days from the date of delivery or mailing of the statement to pay.
 - 2. Appeal procedures.

Sec. 5-802. Emergency abatement.

If a situation presents an imminent danger or threat to the health, safety or welfare of any person or the public in general, the city may issue a notice to abate directing the responsible person to take such action as is appropriate to correct or abate the emergency. In addition, the city may act to correct or abate the emergency. In the event the city is unable to contact the responsible person, such inability in no way affects the city's right to correct or abate the emergency. The responsible person shall be granted a review before the airport appeals board on the matter upon that person's request, as soon as practicable, but such appeal shall in no case stay the abatement or correction of such emergency.

Sec. 5-803. Notice to abate.

- (a) If, after an inspection, the city finds one (1) or more violations of this chapter, and the city elects to use the abatement process, the city shall, in writing, notify the owner, or agent for the owner.
- (b) The notice to abate shall set forth the following information:
 - 1. The owner has fifteen (15) calendar days from the mailing of the notice to abate to correct the violation.

2. Identification of the property in violation by street address if known, and if unknown, then by book, map and parcel number.
3. Statement of the violation in sufficient detail to allow a reasonable person to identify and correct the violation(s).
4. Reinspection date and time.
5. Name, address and phone number of the city inspector who sent the notice to abate.
6. A warning stating that if the violations are not corrected within the fifteen (15) calendar day period the city can abate the problem and assess the owner the cost of such abatement and record a lien on the property for the assessment.
7. Appeal procedures.
8. The fifteen (15) calendar day notice set forth in this section shall not apply to emergency abatements pursuant to section 5-702.

Sec. 5-804. Appeal of notice to abate.

- (a) Any notice to abate or assessment can be appealed to the airport appeals board.
- (b) An appeal must be filed within fifteen (15) calendar days of the service of the notice to abate or assessment and must be filed with the airport director's office.
- (c) Failure of a person entitled to appeal under this chapter to timely file an appeal shall constitute a waiver of the right to a hearing of the complaint before the airport appeals board and such person shall be estopped to deny the validity of any notice or assessment which could have been timely appealed.
- (d) The notice of appeal shall set forth, in writing, the person's reasons for believing no violation of the chapter has occurred or that the assessment is excessive.
- (e) The individual appealing shall accompany the written appeal with an appeal fee of twenty-five (\$25.00) dollars, such sum to be deposited in the airport enterprise fund of the city.
- (f) In case of financial hardship, the fee may be suspended until the decision on appeal is rendered. The airport appeals board may also waive the fee upon a finding of financial hardship.

Sec. 5-805. Procedure on appeal.

- (a) The airport appeals board shall set a hearing date for review of the appeal within forty (40) calendar days of the receipt of notice of appeal by the airport director.

- (b) The airport appeals board shall take testimony from all parties to the appeal. The hearing shall be informal and the rules of evidence shall not apply. The parties may, if they choose, be represented by an attorney.
- (c) The airport appeals board shall prepare a written summary of the hearing and shall set forth the decision reached. A decision shall be rendered and mailed to all parties to the appeal within fifteen (15) calendar days of the hearing.

Sec. 5-806. Abatement variances and time extensions.

- (a) Any person may request a variance or time extension of a notice to abate or assessment. Such request shall be made to the airport appeals board.
- (b) The same time limits for filing and written requirement that appear in section 5-704 on appeals applies to this section.
- (c) The procedure shall be the same as set forth in section 5-705.
- (d) The airport appeals board may grant a variance only where it is determined that all of the following apply:
 - 1. Special circumstances or conditions apply to this appeal application such as hardship;
 - 2. Authorization of the variance is necessary for the preservation and enjoyment of substantial property rights; and
 - 3. Authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.
- (e) If a variance is granted by the airport appeals board, the condition in paragraph (d) allowing the variance and the extent of the variance shall be explicitly stated.
- (f) The airport appeals board may grant one (1) extension of the time limit set forth in section 5-703. Such extension shall not exceed one hundred eighty (180) calendar days. The extension period granted by the airport appeals board starts to run on the day the airport appeals board issues a decision pursuant to section 5-705(c). The airport appeals board may grant an extension only where it is shown that:
 - 1. It would create a hardship to comply with the decision within the fifteen (15) day period of section 5-703; and
 - 2. The moving party presents a plan, that is approved by the airport appeals board, by which said party will comply with the decision within no more than one-hundred eighty (180) calendar days.

Sec. 5-807. Appeal from decision of airport appeals board.

Any party aggrieved by a decision of the airport appeals board may appeal to the Superior Court in accordance with the *Rules of Procedure for Special Actions*.

Sec. 5-808. Stay of order during appeal.

Except for orders to vacate or violations presenting an imminent hazard, the timely filing of an appeal shall stay enforcement of a notice to abate or assessment until the appeal is finally determined by the airport appeals board.

Secs. 809 to 5-900. Reserved